

IN THE IOWA DISTRICT COURT IN AND FOR LINN COUNTY

TYLER MILLER,)	
)	
Plaintiff,)	No.
)	
vs.)	
)	
DANIELLE BRAZANT, KATIE)	
PAPESH, and J.S.M. MARION,)	
LTD. dba MCDONALD'S,)	ORIGINAL NOTICE
)	
Defendants.)	

TO THE ABOVE-NAMED DEFENDANT(S):

You are notified that a petition has been filed in the office of the clerk of this court naming you as the defendant in this action. A copy of the petition (and any documents filed with it) is attached to this notice. The attorneys for the plaintiff(s) are Pickens, Barnes & Abernathy whose address is 1800 First Avenue NE, P.O. Box 74170, Cedar Rapids, Iowa 52407-4170. The attorneys' phone number is (319) 366-7621; facsimile number is (319) 366-3158.

You must serve a motion or answer within 20 days after service of this original notice upon you and, within a reasonable time thereafter, file your motion or answer with the Clerk of Court for Linn County, at the county courthouse in Cedar Rapids, Iowa. If you do not, judgment by default may be rendered against you for the relief demanded in the petition.

If you require the assistance of auxiliary aids or services to participate in court because of a disability, immediately call your district ADA coordinator at 319-398-3920 ext-1105. (If you are hearing impaired, call Relay Iowa TTY at 1-800-735-2942).

(SEAL)

CLERK OF COURT

By _____
Designee
Linn County Courthouse
Cedar Rapids, Iowa

IMPORTANT

YOU ARE ADVISED TO SEEK LEGAL ADVICE AT ONCE TO PROTECT YOUR INTERESTS.

STATE OF IOWA JUDICIARY

Case No. LACV094549

County Linn

Case Title TYLER MILLER VS DANIELLE BRAZANT ET AL

THIS CASE HAS BEEN FILED IN A COUNTY THAT USES ELECTRONIC FILING.

Therefore, unless the attached Petition and Original Notice contains a hearing date for your appearance, or unless you obtain an exemption from the court, you must file your Appearance and Answer electronically.

You must register through the Iowa Judicial Branch website at <http://www.iowacourts.state.ia.us/Efile> and obtain a log in and password for the purposes of filing and viewing documents on your case and of receiving service and notices from the court.

FOR GENERAL RULES AND INFORMATION ON ELECTRONIC FILING, REFER TO THE IOWA COURT RULES CHAPTER 16 PERTAINING TO THE USE OF THE ELECTRONIC DOCUMENT MANAGEMENT SYSTEM:

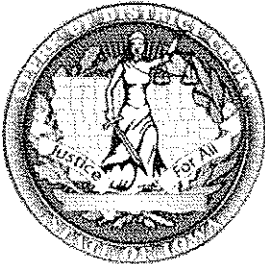
<http://www.iowacourts.state.ia.us/Efile>

FOR COURT RULES ON PROTECTION OF PERSONAL PRIVACY IN COURT FILINGS, REFER TO DIVISION VI OF IOWA COURT RULES CHAPTER 16: <http://www.iowacourts.state.ia.us/Efile>

Scheduled Hearing:

If you require the assistance of auxiliary aids or services to participate in court because of a disability, immediately call your district ADA coordinator at (319) 398-3920 . (If you are hearing impaired, call Relay Iowa TTY at 1-800-735-2942.)

Date Issued 12/19/2019 10:47:26 AM



District Clerk of Linn

County

/s/ Breauna Emanuel

IN THE IOWA DISTRICT COURT IN AND FOR LINN COUNTY

TYLER MILLER,)	
)	
Plaintiff,)	No.
)	
vs.)	
)	
DANIELLE BRAZANT, KATIE)	
PAPESH, and J.S.M. MARION,)	PETITION AT LAW
LTD. dba MCDONALD'S,)	AND JURY DEMAND
)	
Defendants.)	

Plaintiff Tyler Miller, for his Petition at Law against Defendants Danielle Brazant, Katie Papesh, and J.S.M. Marion, Ltd. dba McDonald's, states:

1. Plaintiff Tyler Miller (hereinafter "Miller") is a Linn County resident.
2. Defendant J.S.M. Marion, Ltd. dba McDonald's (hereinafter "J.S.M.") is an Iowa corporation with its principle place of business in Cedar Rapids, Linn County, Iowa.
3. J.S.M. owns and operates a McDonald's restaurant located at 100 6th Avenue, Marion, Linn County, Iowa (hereinafter the "Marion McDonald's").
4. Defendant Danielle Brazant (hereinafter "Brazant") is an employee of J.S.M. and as a shift manager at the Marion McDonald's.
5. Defendant Katie Papesh (hereinafter "Papesh") is an employee of J.S.M. as the general manager at the Marion McDonald's.
6. J.S.M. employed Miller as a crew member at the Marion McDonald's from October 2018 through January 2019.
7. Miller has a rare genetic disorder which affects his learning, comprehension, speech, balance, and movement.

8. During his employment with J.S.M., Brazant and other J.S.M. employees subjected Miller to severe and pervasive harassment and discrimination in relation to his disability.

9. Among other harassment and discrimination, Brazant and other J.S.M. employees repeatedly called Miller “slow,” “stupid,” or “retarded” and mockingly spoke to Miller as if he were a child.

10. Brazant told Miller he, as with other people with disabilities, should not be allowed to have children.

11. Other J.S.M. employees mimicked Miller’s involuntary head and neck movements and called him “bobblehead.”

12. Miller reported the harassment and discrimination to Papesh on three occasions.

13. Neither J.S.M. nor Papesh took any steps to prevent the harassment and discrimination from continuing.

14. Overwhelmed by the daily harassment and discrimination, Miller could not continue his employment with J.S.M. and left his position in January 2019.

15. Miller timely filed a complaint with the Iowa Civil Rights Commission (ICRC), which was cross filed with the Equal Employment Opportunity Commission (EEOC).

16. In its preliminary review, the ICRC found probable cause supporting Miller’s claims.

17. The ICRC issued a right-to-sue letter to Miller on December 16, 2019.

18. The EEOC issued a right-to-sue letter to Miller on December 11, 2019.

Count I: Discrimination in Violation of the Iowa Civil Rights Act

19. Miller incorporates paragraphs 1–18 of this Petition as if set forth fully herein.

20. Miller belongs to a protected group as a person with a disability.

21. Miller was subjected to harassment and discrimination based on his disability which affected the terms, conditions, and privileges of his employment with J.S.M.

22. Brazant individually engaged in the harassment and discrimination against Miller.

23. Papesh and J.S.M. were aware of the harassment and discrimination by Brazant and others but failed to take any remedial action.

24. Brazant, Papesh, and J.S.M. created intolerable working conditions so as to constructively discharge Miller from his employment.

25. Brazant, Papesh, and J.S.M. actions and/or inactions violated the Iowa Civil Rights Act.

25. The harassment and discrimination by Brazant, Papesh, and J.S.M. caused damages to Miller in excess of the jurisdictional minimum of this Court.

Wherefore, Plaintiff Tyler Miller respectfully requests the Court enter judgment against Defendants Danielle Brazant, Katie Papesh, and J.S.M. Marion, Ltd. dba McDonald's for the full extent of Miller's damages, attorney fees, and costs.

Count II: Discrimination in Violation of the ADA

26. Miller incorporates paragraphs 1–25 of this Petition as if set forth fully herein.

27. Brazant, Papesh, and J.S.M.'s actions and/or inactions violated the Americans with Disabilities Act of 1990.

28. Brazant, Papesh, and J.S.M. acted with willful and wanton disregard to the rights of Miller, thus necessitating an award of punitive damages.

Wherefore, Plaintiff Tyler Miller respectfully requests the Court enter judgment against Defendants Danielle Brazant, Katie Papesh, and J.S.M. Marion, Ltd. dba McDonald's for the full extent of Miller's damages, punitive damages, attorney fees, and costs.

Jury Demand

Plaintiff Tyler Miller respectfully requests a trial by jury.

PICKENS, BARNES & ABERNATHY

By Bradley Kaspar
Bradley J. Kaspar AT0012308
1800 First Avenue NE, Suite 200
P.O. Box 74170
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PHONE: (319) 366-7621
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ATTORNEYS FOR PLAINTIFF


Original filed electronically.

IN THE IOWA DISTRICT COURT IN AND FOR LINN COUNTY


TYLER MILLER,)	
)	No. LACV 088694
Plaintiff,)	
)	
vs.)	ACCEPTANCE OF SERVICE
)	
DANIELLE BRAZANT, KATIE)	
PAPESH, and, J.S.M. MARION)	
LTD, dba MCDONALD'S,)	
)	
Defendants.)	

I, Thomas D. Wolle, hereby acknowledge receipt and accept service of the Original Notice and Petition on behalf of the Defendants. This acknowledgement is taking place in Cedar Rapids, Iowa on the 3rd day of January, 2020.

SIMMONS PERRINE MOYER & BERGMAN PLC

By 
Thomas D. Wolle AT0008564
115 Third Street SE, Suite 1200
Cedar Rapids, IA 52401
PH: (319) 366-7641
FAX: (319) 366-1917
E-MAIL:twolle@spmbllaw.com

ATTORNEY FOR DEFENDANTS

CERTIFICATE OF SERVICE	
The undersigned certifies that on 1-3-20 this document was electronically filed with the Clerk of Court using EDMS which will send notification of such filing to the following:	
Bradley Kaspar Pickens, Barnes & Abernathy 1800 1 st Avenue NE, Suite 200 Cedar Rapids, IA 52402 ATTORNEY FOR PLAINTIFF	

IN THE IOWA DISTRICT COURT IN AND FOR LINN COUNTY

TYLER MILLER,

Plaintiff,

vs.

DANIELLE BRAZANT, KATIE
PAPESH, and J.S.M. MARION, LTD.
dba MCDONALD'S,

Defendants.

No. LACV094549

APPEARANCE

COMES NOW the undersigned and hereby enters his appearance on behalf of the Defendants in the above-referenced matter.

SIMMONS PERRINE MOYER BERGMAN PLC

By: 

Thomas D. Wolle – AT0008564

115 Third Street SE, Suite 1200

Cedar Rapids, IA 52401-1266

Telephone: (319) 366-7641

Facsimile: (319) 366-1917

E-mail: twolle@simmonsperrine.com

ATTORNEY FOR DEFENDANTS

CERTIFICATE OF SERVICE

I hereby certify on January 3, 2020, I filed a copy of the foregoing using the Iowa EDMS, which will send notification of such filing to all attorneys and parties of record.

